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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31756 of 2019

And

W.M.P.No.31970 of 2019

A.R.Mohan

... Petitioner

Vs.

The Additional Director General of Police (Crime),
Chennai - 600 008.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the respondent herein in his proceedings Tha.Pa.No.02/2019 u/r 3(b) dated 24.09.2019 and quash the same on the ground of abuse of the process of law and non-application of mind.

For Petitioner : Mr.G.Bala and Daisy

For Respondent : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records relating to the impugned order passed by the respondent in his proceedings Tha.Pa.No.02/2019 u/r 3(b) dated 24.09.2019 and to quash the same on the ground of abuse of the process of law and non-application of mind.

2.Heard the arguments advanced on either side.

3.The case of the petitioner is that the petitioner joined the Police Department by direct recruitment as Sub-Inspector of Police on 24.08.1987 and was promoted as Inspector of Police on 28.11.1997. Whiles, a false complaint was preferred against the petitioner by one Selvaraj and the same was registered as Cr.No.10 of 2005 under Section 7 of Prevention of Corruption Act, 1988. After investigation, final report was filed in



C.C.No.09 of 2006 before the Chief Judicial Magistrate, Tiruchirappalli. Thereafter, the said case was transferred to the Special Court for Vigilance and Anti-Corruption and the same was taken on file in S.C.No.13 of 2011.

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4.It is the further case of the petitioner that vide proceedings dated 06.07.2005, the petitioner was placed under suspension. The petitioner attained the age of superannuation on 31.05.2018, however, he was not allowed to retire from service citing the pendency of the criminal case. The said criminal case ended in honourable acquittal on 29.06.2018. Thereafter, the petitioner appeared before the respondent and submitted a representation dated 03.10.2018 along with the copy of the judgment in S.C.No.13 of 2011 dated 29.06.2018 and requested for revocation of the suspension order and for payment of retirement benefits. However, no order was passed. Hence, the petitioner filed W.P.No.30644 of 2018 before this Court.

5.It is the further case of the petitioner that this Court vide order dated 10.12.2018 made in W.P.No.30644 of 2018, directed the respondent to permit the petitioner to retire from service with effect from 31.05.2018 and to disburse all consequential terminal and retirement benefits to the petitioner within a time frame. Thereafter, the impugned charge memo under Section 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, came to be passed. Hence this writ petition.

6.The learned counsel appearing for the petitioner would submit that vide order dated 10.12.2018 made in W.P.No.30644 of 2018, this

Court directed the respondent to permit the petitioner to retire from service with effect from 31.05.2018 and to disburse all consequential terminal and retirement benefits to the petitioner and till date the said order was not challenged before any other forum. Under such circumstances, issuing charge memo under Section 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, is violation of principles of natural justice. If at all the respondent wants to take any action against the petitioner, it has to be taken only under Section 9 (2) (b) of the Tamil Nadu Pension Rules. Hence, on the face of it, the impugned order is illegal and unsustainable.

7.The learned Special Government Pleader, on instructions, would submit that the respondent requested him to leave it to the Court's decision.

8.Once when the petitioner was allowed to retire from



service with effect from 31.05.2018, vide order of this Court dated 10.12.2018 made in W.P.No.30644 of 2018, issuance of charge memo under Section 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, thereafter is un-sustainable. Hence, this Court has

no hesitation to interfere with the impugned charge memo. Hence, the impugned order is quashed. However, the respondent is at liberty to proceed with the disciplinary proceeding against the petitioner, in the manner known to law.

9.The writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Additional Director General of Police (Crime),
Chennai - 600 008.

+lcc to Mr.G.Bala & Daisy, Advocate, S.R.No. 98874
+lcc to the Government Pleader, S.R.No. 99957

W.P.No.31756 of 2019

And

W.M.P.No.31970 of 2019

PP(CO)
GN(21/01/2020)